

Unrelated Business Income Summary

Each fiscal year, the university is required to file an Exempt Organization Business Income Tax Return (Form 990-T and accompanying schedules) with the Internal Revenue Service (IRS). This filing reports all unrelated business income (UBI) generated by the activities of the university's academic and support units. Proper and complete reporting of UBI is required to avoid any IRS assessed penalty and interest charges for underpayment of unrelated business income taxes and to protect the university's tax-exempt status.

The Internal Revenue Service requires tax-exempt organizations such as colleges and universities to declare and pay tax on net income from activity unrelated to the basic purposes for which the income tax-exempt status was granted. The university's tax-exempt purpose is to provide education, research, and public service. Public service, however, does not, in itself, provide the basis for the university's tax exemption. Each activity that is public service oriented must be evaluated to determine whether an educational or research purpose is also being served.

Three elements must be present for an activity to be considered unrelated to the university's tax-exempt purposes.

1. **Trade or Business:** Includes any activity carried on for the production of income from selling goods or performing services. Generally, a trade or business has a profit motive.
2. **Regularly Carried On:** This test considers the frequency, continuity of operations and the manner in which the activities are conducted. Comparisons of the university activity must be made with similar commercial activities to arrive at a determination of whether or not the activity is taxable. Activities that are sporadic, infrequent or one-time events are generally not considered to be regularly carried on.
3. **Not substantially Related to Exempt Purposes:** A regularly conducted trade or business is subject to tax if it is not substantially related to the exercise or performance of the exempt functions of the university.

The following activity examples are not generally related to the tax-exempt missions of the university and are, therefore, subject to unrelated business income tax:

- Selling goods and providing services to the general public (alumni is included in this category)
- Rental, sale or exchange of mailing lists or other data to commercial entities

- Travel tours programs that are not educational in nature (i.e sightseeing, recreational, social)
- Routine analytical or testing services to non-university users
- Advertising products or services (ads placed in athletic or performing arts programs, periodicals, or on the internet). The following factors would indicate that an organization is engaged in advertising: qualitative or comparative language; call to action; inducement to buy, sell, rent or lease sponsor's product; price savings information; endorsement).
- A hyperlink from the university web site to a sponsor's web site where an endorsement appears by the university for the sponsor's product
- Renting equipment to non-university personnel
- Parking revenues generated from the general public
- On-line stores, charity malls, or auctions linked to the university's web site
- Gift shop sales and gift item bookstore sales (evaluated on an item-by-item basis)
- Professional entertainment events operated in a commercial manner and/or that do not promote the university's tax-exempt purposes
- Exclusive provider arrangements where the university performs substantial services
- Rental of sports facilities such as stadiums, soccer fields, etc. where personal services are being provided
- Printing or audio-visual sales and services to non-university users
- Commercially-sponsored scientific research and drug testing, if the results are not made available to the public or directed toward benefiting the public
- A fitness or recreational facility selling memberships to the general public

In addition to the activity itself, consideration must be given to where the activity is conducted. If any portion of a property, whose construction was financed with tax-exempt bonds, is used to conduct unrelated business activities, the bond financing could lose its tax-exempt status. The percentage of unrelated activity taking place on the property must be monitored to ensure the overall use of the facility by exempt activities is sufficient to prevent challenges to the tax-exempt status of the property's financing.

There are specific activities identified in the federal tax law which are exempted from unrelated business income tax even though they may otherwise have the characteristics of an unrelated trade or business. Some examples of these exempted activities are as follows:

- Real Property rents: Rent collected from outside entities is considered passive and not subject to UBIT. However, the exclusion will not apply if personal services or use of equipment are included in the rental agreement.
- Income from Research Activities: In general, revenue received from research activities is excluded from unrelated business income. There are certain situations that may require

further analysis to determine if they fit the research exception. For example, ordinary testing and inspection of products or materials is normally not exempt from UBI.

- **Member Convenience Activities:** An unrelated activity conducted by the university for the benefit of its members (students, faculty, and staff) is not subject to tax unless the income is generated from sales to non-members. In this case only the non-member generated income is taxable
- **Dividends, Interest, Annuities, and Royalties:** These sources of income are considered passive and are generally excluded from UBI. However, consideration must be given to the investment generating the income before a determination to exclude from UBI. Investments in controlled organizations, partnerships, "S" Corporations, etc. will generally result in UBI.
- **Qualified Sponsorships:** A qualified sponsorship payment from a person engaged in a trade or business, with no expectation of any substantial benefit other than use or acknowledgement of the name or logo of the trade or business, is excluded from unrelated business income.
- Meetings, conferences and seminars sponsored by the university and where education or training is provided by the university
- The sale of broadcasting rights for athletic events
- Sponsoring events for the appearance of professional entertainers to present performances for students, faculty, and the general public that promote the university's tax-exempt purposes and are not operated in a commercial manner

The information provided above is not exhaustive. Unrelated business income tax analysis can be complex requiring significant review to properly determine whether or not an activity is a source of taxable income to the university. If you think you have, or plan to start, an activity that may result in a tax liability for the university please contact the Controller's Office at finrpt@vt.edu to discuss the matter.